REMARKS

Claims 1 to 4, 29, 30, 38, 39, and 56 to 65 are currently under consideration. Claim 5 to 18, 31 to 37, 40 to 50 have been withdrawn. Claims 19 to 28 and 51 to 57 were cancelled to expedite prosecution.

As recited in the pending claims, the subject invention relates to system which allows a customer to obtain professional editing of their digital photographs in a simple and low cost manner. Applicants have commercialized the concepts described in the subject application. The Examiner is invited to view Applicants' consumer oriented website at www.image-edit.com to better appreciate some of the concepts discussed herein.

In the claimed system, the customer transmits a digital image to be edited along with instructions for modification of the image to the provider. The provider receives these instructions and sends the image and instructions to a selected image editor. The editor makes the modifications requested by the customer. The modified image is then made available to the customer. In the preferred embodiment, the transmission of the image to the provider and then on to the editor is carried out over the internet.

In the Office Action, the Examiner rejected the pending claims as being obvious based on the patent to Walker (5,862,223) in view of the patent to Acker (6,883,140). Applicants respectfully traverse this rejection.

The patent to Walker relates to a system which facilitates communication between customers and experts in various fields. In Walker's system, experts can post their qualifications. Customers in search of someone with a particular type of expertise would be guided by the system to find the appropriate expert. In one aspect of Walker, the customer is provided with a list of appropriate experts allowing the customer to choose the expert with the best suited qualifications (column 6, line 13).

Walker provides a number of other examples of how his system might be used. For example, users can pose questions and receive answers from the experts. In another embodiment, a student could post a book report and the system could find an expert that would return feedback on the report. In still other embodiment, an overworked math teacher could post a set of tests and request that the expert provide a grading report. (Column 9, lines 40 to 65).

The Examiner acknowledges that Walker does not disclose a graphics editor as a specific expert. However, the Examiner argues that the applicants' process of choosing an editor is "fundamentally the same as choosing any expert in Walker."

While it is believed that applicants' specific approach for choosing a digital editor is different from Walker's approach, for the sake of argument, we can assume both systems strive to pick the most suitable person for the job (e.g. most qualified, fastest turn-around, lowest cost, etc.) However, the method of choosing the most suitable person for the job is only a part of applicants' claimed invention. Applicants' claimed invention relates to a system of providing digital image editing services by a remote expert. The subject matter being handled by applicants' invention (digital images) and the specific type of work being done (editing those digital images) as well as the particular form of instructions necessary to carry out the invention are completely different from anything disclosed in Walker. Just because a portion of the concept of Walker (selecting the best expert) may be similar to applicants' system does not support a conclusion that applicants' overall inventive concept, which relates to a completely different activity to produce a completely different result, is obvious.

In the Office Action, the Examiner also argued that in Walker, the end user gets the "completed" work back. This is misleading. There is nothing in Walker which discloses the concept of an expert receiving a piece of work, editing that work and sending it back. As noted above, Walker teaches sending a list of experts or answers to the customer. In some of the examples, the "work" being returned is comments or grades, not edited items and certainly not edited digital images. The portion of Walker cited by the Examiner at column 39, line 60-65 merely describes the user getting the expert's "answer."

In summary, it is respectfully submitted that Walker, which merely discloses a system for connecting users with experts, and fails to disclose a system which relates to digital images, fails to disclose a system where instructions are transmitted relating to editing digital images, fails to disclose finding an "expert" who can edit the digital images and fails to disclose providing the modified digital image back to the customer cannot anticipate or render obvious applicants' invention as defined by the claims.

The patent to Acker relates to conventional photo editing software, in this case, Microsoft's Picture It®. Such software is designed for resizing images, correcting color, removing red-eye, etc. This is the type of software that an editor selected by applicants' system

might use to perform simple editing tasks requested by a remote customer. Acker in particular is related to the concept of batch image processing, in other words, applying the same edit or correction to a plurality of photographs all at once. Acker gives an example of a group of photographs there were all scanned into a computer and all of those scanned photographs turned out too dark. The Acker system allows the user to "select" the entire batch and instruct the software to make the same correction to all of the photographs.

Since the primary reference (Walker) has nothing to do with digital images or editing digital images, it is not seen how one skilled in the art would even remotely consider combining Walker and Acker. The Examiner's seems to argue that such a combination would be obvious simply because both references deal with getting work done on a network. However, Acker's references to a network simply reflect the common knowledge that most application software can work in a network environment. Acker's discussions related to a network environment have absolutely nothing to do with obtaining instructions regarding editing an image from a remote customer and supplying it to the user of the Picture It® software. Acker is simply a program that can be used by an editor. It should also be noted that since Acker does not relate to communicating instructions to a third party about editing, its interface is completely different from applicants' interface. Acker simply includes a series of built in commands (e.g. crop, rotate, tint, etc.) that are selected by the user actually doing the editing. In contrast, applicants' interface is configured to allow the customer to provide specific editing instructions to a remote third party, including the ability to enter textual instructions and also use graphic pointers to identify to the editor exactly where on the photograph the edit should be made.

In summary, it is respectfully submitted that applicants' invention, which relates to a system wherein a user can provide a digital image along with instructions for modifying that image, and wherein that information is supplied to an editor who will modify the image according to the instructions and thereafter, provide that modified image back to the customer is not rendered obvious by Walker which fails to teach anything related to digital images, instructions for modifying digital images or providing modified images back to the user, either alone or in combination with Acker which merely relates to a conventional photo-editing program.

In view of the above, it is respectfully submitted that the independent claims pending in this application define patentable subject matter and allowance thereof, along with the claims depending therefrom (including the withdrawn claims) is respectfully solicited.

Respectfully submitted,

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